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12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 SHIGE TAKIGUCHI, FUMI NONAKA,
15 MITSUAKI TAKITA, TATSURO SAKAI,
16 SHIZUKO ISHIMORI, YUKO NAKAMURA,
MASAAKI MORIYA, HATSUNE HATANO,
17 and HIDENAO TAKAMA, individually and on
behalf of all others similarity situated,

18 Plaintiffs,

19 v.

20 MRI INTERNATIONAL, INC., EDWIN J.
FUJINAGA, JUNZO SUZUKI, PAUL
21 MUSASHI SUZUKI, LVT, INC., dba
STERLING ESCROW,
22 and DOES 1-500,

23 Defendants.

Case No. 2:13-cv-01183-HDM-NJK

**DEFENDANT FIRST HAWAIIAN
BANK'S APPLICATION FOR AN
ORDER PERMITTING PAYMENT OF
ITS REASONABLE LEGAL FEES
AND COSTS**

Hon. Howard D. McKibben

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that defendant First Hawaiian Bank (“FHB”), as trustee of the Junzo Suzuki Irrevocable Trust UAD 07/12/2013 (“Junzo Trust”), trustee of the Keiko Suzuki Irrevocable Trust UA 07/12/2013 (“Keiko Trust”), and trustee of the Junzo and Keiko Suzuki Irrevocable Life Insurance Trust U/A DTD 05/01/2008 (“Irrevocable Life Insurance Trust”) (collectively, the “Trusts”), hereby applies for an order permitting the payment of \$22,451.00, constituting its reasonable legal fees and costs incurred in this action from October 2016 through June 2017, to its counsel from accounts held by FHB in the name of the Trusts, which are subject to the Court’s preliminary injunction, entered on September 18, 2014. This Application is made on the grounds that the Junzo Trust, Keiko Trust, and Irrevocable Life Insurance Trust each authorize FHB “[t]o prosecute or defend actions, claims, or proceedings for the protection of trust property and of [FHB] in the performance of [FHB’s] duties,” and provide that FHB “will be reimbursed for all expenses reasonably incurred in the administration of [the Trusts].”

From October 2016 through June 2017, FHB has incurred a total of \$22,451.00 in reasonable legal fees and costs—\$20,362.50 of which are payable to Vedder Price (CA), LLP (“Vedder Price”), its lead counsel, and \$2,088.50 of which are payable to Akerman LLP (“Akerman”), its local counsel—in defending this action for the protection of trust property and in the performance of its duties. FHB therefore respectfully requests that the Court issue an order permitting it to pay its reasonable legal fees and costs, in the total amount of \$22,451.00, from the Trusts’ funds, as follows: (a) \$20,362.50 to be paid to Vedder Price, with \$6,787.50 originating from the account held by FHB in the name of the Junzo Trust, \$6,787.50 originating from the account held by FHB in the name of the Keiko Trust, and \$6,787.50 originating from the account held by FHB in the name of the Irrevocable Life Insurance Trust; and (b) \$2,088.50 to be paid to Akerman, with \$696.17 originating from the account held by FHB in the name of the Junzo Trust, \$696.16 originating from the account held by FHB in the name of the Keiko Trust, and \$696.17 originating from the account held by FHB in the name of the Irrevocable Life Insurance Trust.

1 This Application is based on this Notice, the attached Memorandum of Points and
2 Authorities, the concurrently-filed Declaration of Lisa M. Simonetti and exhibits thereto, and all
3 other documents on file in this action.

4 Dated: September 13, 2017

Respectfully submitted,

VEDDER PRICE (CA), LLP
LISA M. SIMONETTI
CHRISTOPHER R. RAMOS

8 By: /s/ Lisa M. Simonetti
9 Lisa M. Simonetti

10 *Attorneys for Defendant*
11 *First Hawaiian Bank*

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

FHB, as trustee of the Junzo Trust, Keiko Trust, and Irrevocable Life Insurance Trust, submits this Application for an order permitting the payment of its reasonable legal fees and costs from accounts subject, or purportedly subject, to the Court’s preliminary injunction, entered in this action on September 18, 2014. *See* Dkt. No. 183. The preliminary injunction, which the Court entered to prevent the “immediate and irreparable harm [that would] result from” defendants Junzo Suzuki and Paul Musashi Suzuki’s (together, the “Suzuki defendants”) “dissipation or concealment of their assets,” enjoined the Suzuki defendants and “their agents and representatives, and all persons and entities under the control of or acting in concert with either of them,” from “transferring, converting, selling, concealing, disbursing, spending, withdrawing, liquidating, encumbering, pledging, assigning, or otherwise disposing of any assets” owned or controlled by them. *See* Dkt. 183 at 16-18. The injunction further requires any “financial institution . . . having possession, custody, or control of any asset titled in the name of or on behalf of [the Suzuki defendants]” to “[h]old . . . and prohibit the transfer, encumbrance, pledge hypothecation, assignment, removal, withdrawal, dissipation, sale, or other disposal of any such asset, other than as authorized by further order of the court.” *Id.* at 18.

FHB was added a defendant in this action on September 28, 2016, in connection with the filing of the Fifth Amended Complaint by plaintiffs Shige Takiguchi, Fumi Nonaka, Mitsuaki Takita, Tatsuro Sakai, Shizuko Ishimori, Yuko Nakamura, Masaaki Moriya, Hatsune Hatano, and Hidenao Takama, on behalf of themselves and those similarly situated (collectively, “Plaintiffs”). *See* Dkt. No. 481. The Fifth Amended Complaint names FHB as a defendant specifically in its capacity as trustee of the Junzo Trust, Keiko Trust, and Irrevocable Life Insurance Trust. *Id.* ¶¶ 6-18.

From October 2016 through June 2017, FHB incurred reasonable legal fees and costs in the performance of its duties as trustee of the Trusts, related to its defense of this action. Because

the Trusts authorize FHB to be reimbursed for these reasonable expenses, FHB seeks the Court's approval to pay them from accounts it holds in the name of the Trusts.

II. FHB Incurred Legal Fees And Costs From October 2016 Through June 2017 Related To This Action, For Which It Is Entitled To Reimbursement.

From October 2016 through June 2017, FHB incurred \$22,451.00 in legal fees and costs related to defending this action, payable as follows:

- \$20,362.50 payable to Vedder Price, lead counsel for FHB; and
- \$2,088.50 payable to Akerman, local counsel for FHB.

Simonetti Decl. ¶¶ 2-3, Exs. A-B. These fees and costs were incurred in response to litigation activity by Plaintiffs, and not due to affirmative litigation conduct by FHB. *See id.*

Specifically, the fees incurred from FHB's lead counsel, Vedder Price, in October and November 2016 (\$4,167.00), related primarily to FHB's analysis of Plaintiff's Fifth Amended Complaint and the preparation of FHB's Answer. *See* Simonetti Decl. ¶ 2, Ex. A, pp. 3-6. The fees incurred from Vedder Price in December 2016 and January 2017 (\$1,521.50) related primarily to the general management and administration of the case. *See id.*, pp. 7-10. In February and March 2017, the fees incurred from Vedder Price (\$11,510) related primarily to objecting, meeting-and-conferring and responding to discovery propounded by Plaintiffs.¹ *See id.*, pp. 11-18. The fees incurred from Vedder Price in April and May 2017 (\$1,213.50) related primarily to the general management and administration of the case, as well. *See id.*, pp. 19-24. And, in June, 2017, the fees incurred from Vedder Price (\$1,950.50) related primarily to participation in various telephonic status conferences set by the Court, and the preparation of a stipulation for payment of FHB's attorneys' fees (which would have obviated the need for this Application, had Plaintiffs agreed to it). *See id.*, pp. 25-26. All of the fees and costs incurred by FHB through June 2017 from Akerman (\$2,088.50) relate primarily to Akerman's facilitation of

¹ FHB objected to Plaintiffs' discovery requests, as originally propounded, because they were overreaching and unduly burdensome. *See* Simonetti Decl. ¶ 8. Indeed, even after meet-and-confer efforts, FHB ultimately responded only in a very limited fashion to the discovery and largely stood on its initial objections. *Id.* Plaintiffs' failure to move to compel FHB to respond to the remainder of the discovery effectively concedes the discovery's over breadth. *Id.*

1 the management and administration of the case in its role as local counsel. Simonetti Decl. ¶ 3,
2 Ex. B, pp. 27-31.

3 Pursuant to the terms of the Trusts, FHB is entitled to reimbursement for the \$22,451.00
4 in reasonable legal fees and costs it has incurred from Vedder Price and Akerman. Specifically,
5 the Junzo Trust, Keiko Trust, and Irrevocable Life Insurance Trust each authorize FHB “[t]o
6 prosecute or defend actions, claims, or proceedings for the protection of trust property and of
7 [FHB] in the performance of [FHB’s] duties,” and provide that FHB “will be reimbursed for all
8 expenses reasonably incurred in the administration of all trusts created hereunder.” Simonetti
9 Decl. ¶ 4, Ex. C (Junzo Trust) §§ C-2(x), C-3.10; *id.* ¶ 5, Ex. D (Keiko Trust) §§ C-2(x), C-3.10;
10 *id.* ¶ 6, Ex. E (Irrevocable Life Insurance Trust) §§ C-2(x), C-3.9. FHB was named as a
11 defendant here in its capacity as trustee of the Trusts, *see* Dkt. No. 481 ¶¶ 16-18, and has
12 defended the action for its “protection . . . in the performance of its duties.” Accordingly, FHB is
13 entitled to reimbursement for the reasonable legal fees and costs it has incurred from Vedder
14 Price and Akerman.

15 **III. The Legal Fees And Costs Incurred By FHB Are Reasonable.**

16 The \$22,451.00 in legal fees and costs incurred by FHB from October 2016 through June
17 2017 are reasonable. Lead counsel for FHB, Lisa Simonetti, is a shareholder at Vedder Price and
18 has discounted her standard hourly rate on this matter to \$500 per hour. *See, e.g.*, Simonetti Decl.
19 ¶ 7; *id.* ¶ 2, Ex. A. Christopher Ramos, an associate at Vedder Price, bills at an hourly rate of
20 \$330 per hour on this matter. *Id.* ¶ 2, Ex. A. These rates are reasonable given the nature and
21 complexity of the case and, in fact, are significantly lower than the hourly rates billed by lead
22 counsel for other defendants in this action. *See, e.g.*, Dkt. No. 666-2 (\$650 per hour billed by lead
23 counsel for the Suzuki defendants); Dkt. No. 707-1 (\$595 per hour billed by lead counsel for
24 defendant Suzuki Enterprises, Inc. Profit Sharing Plan (the “Plan”)). Local counsel for FHB, Rex
25 Garner of Akerman, bills at an hourly rate of \$370 per hour. Simonetti Decl. ¶ 3, Ex. B. This
26 rate is also substantially lower than the rate billed by local counsel for other defendants. *See, e.g.*,
27
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1 Dkt. No. 707-1 (\$495 per hour billed by local counsel for the Plan); Dkt. No. 666-3 (\$400 per
2 hour billed by local counsel for the Suzuki defendants).

3 Furthermore, the legal fees and costs incurred by FHB are reasonable when compared to
4 the fees the Court has permitted the Suzuki defendants to expend. In an order dated June 30,
5 2016, the Court permitted the Suzuki defendants to “pay up to \$10,000 per month for attorney’s
6 fees related to this litigation.” Dkt. No. 443 at 2 (“Fee Order”). The Fee Order also permitted the
7 Suzuki defendants to apply for the Court’s approval to expend legal fees in excess of the \$10,000
8 per month limit. *Id.* Indeed, the Suzuki defendants have filed an application to expend legal fees
9 in excess of the \$10,000 per month limit for, at least, each month from June 2016 through
10 February 2017. *See* Dkt. Nos. 447, 469, 504, 519, 554, 594, 615, 666. In contrast, the legal fees
11 and costs incurred by FHB from October 2016 through June 2017 average only \$2,494.56 per
12 month. And the most FHB has incurred in legal fees and costs in any given month is \$7,004.00.²
13 *See* Simonetti Decl. ¶ 2, Ex. A at 14 (Vedder Price’s March 2017 invoice); *id.* ¶ 3, Ex. B at 30
14 (Akerman’s invoice for March 2017). FHB’s legal fee expenditure is also generally less than that
15 of other defendants. *See, e.g.*, Dkt. No. 707 at 1 (\$35,602.25 in legal fees incurred by the Plan in
16 June 2017). Accordingly, the \$22,451.00 in legal fees and costs incurred by FHB from October
17 2016 through June 2017 is reasonable.

18 **II. Conclusion**

19 For the foregoing reasons, FHB respectfully requests that the Court issue an order
20 permitting it to pay its reasonable legal fees and costs, in the total amount of \$22,451.00, from the
21 Trusts’ funds, as follows: (a) \$20,362.50 to be paid to Vedder Price, with \$6,787.50 originating
22 from the account held by FHB in the name of the Junzo Trust, \$6,787.50 originating from the
23 account held by FHB in the name of the Keiko Trust, and \$6,787.50 originating from the account
24 held by FHB in the name of the Irrevocable Life Insurance Trust; and (b) \$2,088.50 to be paid to
25

26 ² During discussions with Plaintiffs regarding FHB’s request for a stipulation to the requested
27 fees, Plaintiffs argued that this amount was unreasonable based on FHB’s “discovery tactics.”
28 Simonetti Decl. ¶ 9. Those tactics included objecting to overreaching discovery requests, and
then producing requested documents following the meet-and-confer process. *Id.* No motion
practice was pursued, as it was unnecessary. *Id.*

1 Akerman, with \$696.17 originating from the account held by FHB in the name of the Junzo Trust,
2 \$696.16 originating from the account held by FHB in the name of the Keiko Trust, and \$696.17
3 originating from the account held by FHB in the name of the Irrevocable Life Insurance Trust.

4
5 Dated: September 13, 2017

Respectfully submitted,

6 VEDDER PRICE (CA), LLP
7 LISA M. SIMONETTI
8 CHRISTOPHER R. RAMOS

9 By: /s/ Lisa M. Simonetti
Lisa M. Simonetti

10 *Attorneys for Defendant*
11 *First Hawaiian Bank*
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CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2017, I electronically filed the foregoing
**DEFENDANT FIRST HAWAIIAN BANK'S APPLICATION FOR AN ORDER
PERMITTING PAYMENT OF ITS REASONABLE LEGAL FEES AND COSTS** with the
United States District Court, District of Nevada, through the CM/ECF system.

/s/ Lisa M. Simonetti